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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,563	12/07/2005	Taichi Kobayashi	Q88775	6718
23373	7590	01/04/2008		
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER JONES, JAMES	
			ART UNIT 2873	PAPER NUMBER
			MAIL DATE 01/04/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

20 8V

## Office Action Summary

Application No.

10/540,563

Applicant(s)

KOBAYASHI ET AL.

Examiner

James C. Jones

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/18/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Information Disclosure Statement*

The information disclosure statement (IDS) submitted on 12/18/2007 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-7 are rejected under 35 U.S.C. 102(a) as being anticipated by Yoshiro (2002-196739) hereafter '739.

'510 discloses the limitations therein including the following:

Regarding claim 1 '739 discloses an image display device which comprises an image display panel (abstract, fig. 1), in which two or more groups of particles having different colors and different charge characteristics are sealed in a plurality of cells formed by partition walls between two substrates (abstract, fig. 3, par. [0050] "42" and "40" as the "two different particles" "23" and "20" as the "substrates") at least one of two substrates being transparent and, in which the particles (par. [0047]-[0048]), to which an electrostatic field produced by electrodes provided to both of the substrates is applied, are made to move so as to display an image (fig. 2, 5, par. [0041]-[0045][0057]-[0059] "25" and "22" as the "electrodes"), characterized in that a coating area of the electrode

provided on two substrates respectively is patternized with respect to a projected area of respective cells (fig. 2, 5, par. [0047]-[0048][0054]-[0055]).

Regarding claim 2 '739 discloses the image display device according to claim 1, wherein at least one of the electrodes provided on the two substrates respectively has a coating area in respective cells of 5-99% with respect to a projected area of respective cells (fig. 2, 3, 9, par. [0047]-[0048][0054]-[0055] note: the electrodes are formed of an insulating coat layer so the electrode inherently will have a coating area).

Regarding claim 3 '739 discloses the image display device according to claim 1, wherein at least one of the electrodes provided on the two substrates respectively has a coating area in respective cells of 30-90% with respect to a projected area of respective cells (fig. 2, 3, 9, par. [0047]-[0048][0054][0055]).

Regarding claim 4 '739 discloses the image display device according to claim 2, wherein a contact dimension between at least one of the electrodes provided on the two substrates respectively and the partition wall is less than 50% of an inner peripheral dimension of respective cells (fig. 2, 3, 7).

Regarding claim 5 '739 discloses an image display device which comprises an image display panel (abstract), in which two or more groups of particles having different colors and different charge characteristics are sealed in a plurality of cells formed by partition walls between two substrates (abstract, fig. 3, par. [0050] "42" and "40" as the "two different particles" "23" and "20" as the "substrates"), at least one of two substrates being transparent, and, in which the particles (par. [0047]-[0048]), to which an electrostatic field produced by electrodes provided to both of the substrates is applied,

are made to move so as to display an image (fig. 2, 5, par. [0041]-[0045][0057]-[0059] "22" and "25" as the "electrodes"), characterized in that, in the case of arranging the image display panel vertically in a stationary manner, the electrode is patternized in such a manner that no electrode portion is formed at a vertically lower portion in respective cells (fig. 2, 5, par. [0047]-[0048][0054]-[0055] note: that in the case of arranging the image display vertically the electrode "20" will be in the vertical position and the electrode "20" is pattern in such a manner that none of electrode "20" will be in the lower portion in the respective cell).

Regarding claim 6 '739 discloses the image display device according to claim 5, wherein an area of the no electrode portion formed at a vertically lower portion in respective cells is 5-50% with respect to a projected area of respective cells (fig. 2, 3, 7, 9, based off the figures disclosed in '739 and the broadly claimed range the image display device of '739 will inherently have a no electrode portion, wherein the area of the no electrode portion formed at a vertically lower portion in respective cells is 5-50%).

Regarding claim 7 '739 discloses the image display according to claim 5, wherein an area of the no electrode portion formed at a vertically lower portion in respective cells is 15-45% with respect to a projected area of respective cells (fig. 2, 3, 7, 9, based off the figures disclosed in '739 and the broadly claimed range the image display device of '739 will inherently have a no electrode portion, wherein the area of the no electrode portion formed at a vertically lower portion in respective cells is 15-45%).

### ***Response to Arguments***

The Examiner notes that the applicant has overcome the prior art (Kitano et al. USP 7224510) by submitting an English translation of Japanese application 2002-371,995 and Japanese application 2002-372005 in order to perfect priority. Each of these applications were filed on December 24, 2002, before Kitano was published on May 30, 2003. Kitano does have a PCT filing date that predates December 24, 2002 but the PCT was not filed in English. Therefore, according to the MPEP 706.02(f)(1) the non-English filing date does not qualify as a prior priority date. Accordingly, the 35 USC 102(e) rejection with respect to the Kitano reference has been withdrawn. However Yoshiro 2002-196739 reads on claims 1-7 as set forth in the rejection above prompting this non-final rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Jones whose telephone number is (571) 270-1278. The examiner can normally be reached on Monday thru Friday, 8 a.m. to 5 p.m. est. time.

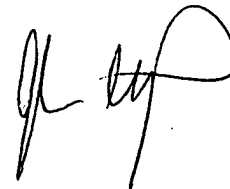
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*James C. Jones* 12/21/2007  
JCJ



JORDAN SCHWARTZ  
PRIMARY EXAMINER